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Employers Prepare for EEO-1 Component 2

The EEOC collects workforce data from employers with more than 100 employees [a lower threshold applies to federal contractors]. The data collected is used for several purposes, including enforcement, employers' self-assessment, and for research. Historically, such employers have been required to file annual Employer Information Reports ["EEO-1 Component 1 Reports"] disclosing the number of employees by job category, race and gender.

By September 30, 2019, employers must file Component 2 data, including compensation and hours worked, as detailed below. Component 2 requires employers to report employees' hours worked and pay information from their W-2 forms, according to the same categories. The Online Filing System data collection portal for Component 2 is now open. System login information was scheduled to be sent to employers via USPS letter and email on July 15, 2019. Component 2 Upload File Layout Specifications and an accompanying Excel File for 2017 and 2018 are now available in the ["More Info and Additional References" section](#). The secure file upload function and validation process is expected to be available by mid-August 2019.

This new pay and hours worked data will give the EEOC an extraordinary look at employers' compensation practices and may trigger EEOC investigations or charges. Employers should take the opportunity now to ensure their organization's pay practices are equitable and not vulnerable to attack, for example, by have a pay equity audit performed. Even if the pay data submitted passes muster with the EEOC, it is possible that the data could be disclosed to third parties pursuant to federal statutes.

Being proactive now in identifying any disparities with a business' pay structure and developing a plan to address them could help prevent future problems. An audit is a valuable option to employers seeking to confirm the absence of pay inequity.

The details surrounding Component 2 [available in full [here](#)] are as follows:

- By September 30, 2019, employers including federal contractors are required to submit Component 2 compensation data for 2017 and 2018 if they had 100 or more [full and part-time] employees during the workforce snapshot period. (Note

that federal contractors with 50-99 employees are not required to report Component 2 compensation data, and that federal contractors with 1-49 employees, and other private employers with 1-99 employees, are not required to file either EEO-1 Component 1 data or Component 2 data.]

- The “workforce snapshot” period for the 2017 EEO-1 report would be an employer-selected pay period between October 1 and December 31, 2017; the snapshot period for the 2018 report would be an employer-selected pay period between October 1 and December 31, 2018 [the snapshot periods need not be the same year to year.]

- Employees are tallied in each compensation band by category categories including: Executive/Senior Level Officials and Managers; First/Mid-Level Officials and Managers; Professionals; Technicians; Sales Workers; Administrative Support Workers; Craft Workers; Operatives; Laborers and Helpers; and Service Workers. This data is then entered in the appropriate columns of the report based on sex and ethnicity or race.

- Employers use W-2’s Box 1 income as the measure of compensation for each employee, even if they did not work a full calendar year; then they tally the total number of employees in each compensation band by job category.

- Component 2 has a second matrix to report hours-worked data for all full and part-time employees, with each cell on the hours-worked matrix corresponding to a cell on the summary compensation data matrix. The hours worked during the reporting year by all the employees counted in the cell on the summary compensation data matrix should be totaled and then recorded in the corresponding cell on the hours-worked matrix.

- For FLSA-exempt employees, employers may either report actual hours worked if the employer maintains accurate records of this information, or report a proxy of 40 hours/week for full-time employees and 20 hours/week for part-time employees, multiplied by the number of weeks of employment during the reporting year.

- Component 2 instructions adopt the FLSA definition of hours worked; thus, hours worked do not include paid leave, such as sick leave, vacation leave, or paid holidays. For an employee who is exempt from the FLSA, employers have the option to report the designated proxy hours of 40 or 20 hours/week or actual hours worked.

- If an employer has multiple establishments and some have fewer than 100 employees, the employer reports Component 2 data for all establishments. The 100 employee-threshold is for the employer as a whole after totaling employees based at headquarters and all locations.
- If an employer has establishments with fewer than 50 employees, it may choose to file a Type 6 [Establishment List] or a Type 8 [Establishment Report] for those establishments, in addition to the Consolidated Report [Type 2] and Headquarters Report [Type 3].
- Component 2 data is reported under “Section D – Employment Data.” Employers will report this data through the Component 2 EEO-1 Online Filing System or by creating a data file and inputting their data in the appropriate fields per the data file specifications. When submitting a data file, the file layout must match the data file specifications exactly. [Note that historical data from previously filed 2017 and 2018 EEO-1 Reports will not pre-populate in the new online application for the reporting of Component 2 data.]